

1 Robert T. Haslam (No. 71134)
2 HELLER EHRMAN WHITE & McAULIFFE LLP
3 275 Middlefield Road
4 Menlo Park, CA 94025-3506
5 Telephone: (650) 324-7000
6 Facsimile: (650) 324-0638

7 Chris Landgraff
8 Mark E. Ferguson
9 BARLITT BECK HERMAN PALENCHAR & SCOTT
10 Courthouse Place
11 54 West Hubbard Street, Suite 300
12 Chicago, IL 60610
13 Telephone: (312) 494-4477

14 Attorneys for Plaintiff
15 HEWLETT-PACKARD COMPANY

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN JOSE DIVISION

19 Hewlett-Packard Company,

20 Plaintiff,

21 v.

22 EMC Corporation,

23 Defendant.

24 **C02 04709**
Case No.:

25 **COMPLAINT FOR PATENT
26 INFRINGEMENT AND JURY
27 DEMAND**

28 Plaintiff Hewlett-Packard Company ("HP") states the following in support of its Complaint for
Patent Infringement against Defendant EMC Corporation ("EMC"):

I. PARTIES

1. HP is a corporation organized under the laws of Delaware with its principal place of
business in Palo Alto, California. HP maintains an office within this judicial district.

2. EMC is a corporation organized under the laws of Massachusetts and maintains its
corporate headquarters in Hopkinton, Massachusetts. EMC conducts business in this district from
which it derives revenue.

ENTERED

NOV 13 2002

CALENDARED

ORIGINAL FILED

SEP 30 2002

Richard W. Wiegand
Clerk, U.S. District Court
Northern District of California
San Jose

ADR

COPY

EDL

1 **II. JURISDICTION AND VENUE**

2 3. HP's United States patent infringement claims arise under 35 U.S.C. § 271 et seq.
3 This Court has subject matter jurisdiction over these claims under 28 U.S.C. §§ 1331 and 1338.

4 4. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(c) and 1400.

5 **III. FIRST CLAIM FOR RELIEF**

6 5. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

7 6. United States Patent No. 5,237,658 ('658 patent), entitled "Linear And Orthogonal
8 Expansion Of Array Storage In Multiprocessor Computing Systems" (Exhibit A hereto), was duly
9 and legally issued on August 17, 1993 to Tandem Computers Incorporated, as assignee of Mark
10 Walker, Albert Lui, Harald Sammer, Wing Chan, and William Fuller.

11 7. HP has acquired and is now the owner of the right, title and interest in the '658
12 patent.

13 8. EMC has infringed, actively induced and/or contributed to the infringement of the
14 '658 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the
15 inventions set forth in the claims of the '658 patent, including but not limited to EMC's Clariion
16 and TimeFinder products.

17 9. On information and belief, EMC has infringed, actively induced and/or contributed
18 to the infringement of the '658 patent willfully and deliberately.

19 10. Unless EMC is enjoined from infringing the '658 patent, HP will suffer irreparable
20 injury. HP has no adequate remedy at law.

21 11. As a result of the infringement of one or more claims of the '658 patent, HP has
22 been damaged in an amount to be determined but not less than a reasonable royalty.

23 **IV. SECOND CLAIM FOR RELIEF**

24 12. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

25 13. United States Patent No. 5,247,618 ('618 patent), entitled "Transferring Data In A
26 Digital Data Processing System" (Exhibit B hereto), was duly and legally issued on September 21,
27 1993 to Digital Equipment Corporation, as assignee of Scott Davis, William Goleman, David Thiel,
28 Robert Bean and James Zahrobsky.

1 14. HP has acquired and is now the owner of the right, title and interest in the '618
2 patent.

3 15. EMC has infringed, actively induced and/or contributed to the infringement of the
4 '618 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the
5 inventions set forth in the claims of the '618 patent, including but not limited to EMC's Symmetrix,
6 SRDF, TimeFinder and SnapView products.

7 16. On information and belief, EMC has infringed, actively induced and/or contributed
8 to the infringement of the '618 patent willfully and deliberately.

9 17. Unless EMC is enjoined from infringing the '618 patent, HP will suffer irreparable
10 injury. HP has no adequate remedy at law.

11 18. As a result of the infringement of one or more claims of the '618 patent, HP has
12 been damaged in an amount to be determined but not less than a reasonable royalty.

13 **V. THIRD CLAIM FOR RELIEF**

14 19. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

15 20. United States Patent No. 5,315,602 ('602 patent), entitled "Optimized Stripe
16 Detection For Redundant Arrays Of Disk Drives" (Exhibit C hereto), was duly and legally issued
17 on May 24, 1994 to Digital Equipment Corporation as assignee of Eric Noya, Randy Arnott and
18 Mitchell Rosich.

19 21. HP has acquired and is now the owner of the right, title and interest in the '602
20 patent.

21 22. EMC has infringed, actively induced and/or contributed to the infringement of the
22 '602 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the
23 inventions set forth in the claims of the '602 patent, including but not limited to EMC's Clariion
24 products.

25 23. On information and belief, EMC has infringed, actively induced and/or contributed
26 to the infringement of the '602 patent willfully and deliberately.

27 24. Unless EMC is enjoined from infringing the '602 patent, HP will suffer irreparable
28 injury. HP has no adequate remedy at law.

25. As a result of the infringement of one or more claims of the '602 patent, HP has been damaged in an amount to be determined but not less than a reasonable royalty.

VI. FOURTH CLAIM FOR RELIEF

26. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

27. United States Patent No. 5,917,253 ('253 patent), entitled "Live AC Mains Power Selector For Redundant Systems" (Exhibit D hereto), was duly and legally issued on June 29, 1999 to HP as assignee of Michael Rusnack.

28. HP is the owner of the right, title and interest in the '253 patent.

29. EMC has infringed, actively induced and/or contributed to the infringement of the '253 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the inventions set forth in the claims of the '253 patent, including but not limited to EMC's Celerra and Symmetrix products.

30. On information and belief, EMC has infringed, actively induced and/or contributed to the infringement of the '253 patent willfully and deliberately.

31. Unless EMC is enjoined from infringing the '253 patent, HP will suffer irreparable injury. HP has no adequate remedy at law.

32. As a result of the infringement of one or more claims of the '253 patent, HP has been damaged in an amount to be determined but not less than a reasonable royalty.

VII. FIFTH CLAIM FOR RELIEF

33. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

34. United States Patent No. 6,269,453 ('453 patent), entitled "Method For Organizing The Data On A RAID-4 Or RAID-5 Array In The Absence Of One Disk" (Exhibit E hereto), was duly and legally issued on July 31, 2001 to Compaq Computer Corporation, as assignee of Joseph Krantz.

35. HP has acquired and is now the owner of the right, title and interest in the '453 patent.

36. EMC has infringed, actively induced and/or contributed to the infringement of the '453 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the

1 inventions set forth in the claims of the '453 patent including but not limited to EMC's Clariion and
2 Symmetrix products.

3 37. On information and belief, EMC has infringed, actively induced and/or contributed
4 to the infringement of the '453 patent willfully and deliberately.

5 38. Unless EMC is enjoined from infringing the '453 patent, HP will suffer irreparable
6 injury. HP has no adequate remedy at law.

7 39. As a result of the infringement of one or more claims of the '453 patent, HP has
8 been damaged in an amount to be determined but not less than a reasonable royalty.

9 **VIII. SIXTH CLAIM FOR RELIEF**

10 40. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

11 41. United States Patent No. 6,356,979 ('979 patent), entitled "System And Method For
12 Selectively Presenting Logical Storage Units To Multiple Host Operating Systems In A Networked
13 Computing System" (Exhibit F hereto), was duly and legally issued on March 12, 2002 to Compaq
4 Computer Corporation, as assignee of Stephen Sicola, Michael Walker and James Pherson.

15 42. HP has acquired and is now the owner of the right, title and interest in the '979
16 patent.

17 43. EMC has infringed, actively induced and/or contributed to the infringement of the
18 '979 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the
19 inventions set forth in the claims of the '979 patent, including but not limited to EMC's Clariion
20 and TimeFinder products.

21 44. On information and belief, EMC has infringed, actively induced and/or contributed
22 to the infringement of the '979 patent willfully and deliberately.

23 45. Unless EMC is enjoined from infringing the '979 patent, HP will suffer irreparable
24 injury. HP has no adequate remedy at law.

25 46. As a result of the infringement of one or more claims of the '979 patent, HP has
26 been damaged in an amount to be determined but not less than a reasonable royalty.

27 **IX. SEVENTH CLAIM FOR RELIEF**

28 47. HP incorporates the allegations of paragraphs 1 through 4 as if fully set forth herein.

1 48. United States Patent No. 5,390,327 ('327 patent), entitled "Method For On-Line
2 Reorganization Of The Data On A RAID-4 Or RAID-5 Array In The Absence Of One Disk And
3 The On-Line Restoration Of A Replacement Disk" (Exhibit G hereto), was duly and legally issued
4 on February 14, 1995 to Digital Equipment Corporation, as assignee of Clark Lubbers and David
5 Thiel.

6 49. HP has acquired and is now the owner of the right, title and interest in the '327
7 patent.

8 50. EMC has infringed, actively induced and/or contributed to the infringement of the
9 '327 patent by making, using, offering for sale, selling and/or causing to be sold one or more of the
10 inventions set forth in the claims of the '327 patent, including but not limited to EMC's Clariion
11 products.

12 51. On information and belief, EMC has infringed, actively induced and/or contributed
13 to the infringement of the '327 patent willfully and deliberately.

14 52. Unless EMC is enjoined from infringing the '327 patent, HP will suffer irreparable
15 injury. HP has no adequate remedy at law.

16 53. As a result of the infringement of one or more claims of the '327 patent, HP has
17 been damaged in an amount to be determined but not less than a reasonable royalty.

18 **X. PRAYER**

19 Wherefore, HP prays for relief and judgment as follows:

20 1. That EMC be adjudged to have infringed, actively induced the infringement of
21 and/or contributed to the infringement of the '658, '618, '602, '253, '453 and '979 patents;

22 2. That EMC be adjudged to have infringed, actively induced the infringement of
23 and/or contributed to the infringement of the '658, '618, '602, '253, '453 and '979 patents willfully
24 and deliberately;

25 3. That this Court issue an injunction permanently enjoining EMC and those acting
26 in concert with it from manufacturing, using and/or selling any product that infringes upon the
27 rights secured by the '658, '618, '602, '253, '453 and '979 patents;

1 4. That the Court declare this case to be an "exceptional case" and award HP
2 attorneys' fees pursuant to 35 U.S.C. § 285;

3 5. That HP be awarded damages of not less than a reasonable royalty and that such
4 damages be increased three times as a result of EMC's willful and deliberate infringement;

5 6. For costs of suit pursuant to 35 U.S.C. § 284; and

6 7. For such other and further relief as this Court may deem appropriate.

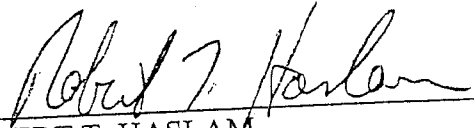
7 **XI. JURY DEMAND**

8 HP hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38 as to all issues triable by a
9 jury.

10 DATED: September 30, 2002

Respectfully submitted,

HELLER EHRMAN WHITE & McAULIFFE LLP

13 By 
14 ROBERT T. HASLAM
15 Attorneys for Plaintiff
16 HEWLETT-PACKARD COMPANY
17
18
19
20
21
22
23
24
25
26
27
28